

19003

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-203971

DATE: August 4, 1981

MATTER OF: Ward '79 Limited

DIGEST:

Late hand-carried bid that was delivered on time to wrong place may not be considered for award where Government action was not paramount cause for late delivery to proper place.

Ward '79 Limited (Ward) protests the Department of the Army's refusal to consider its hand-carried bid under invitation for bids (IFB) No. DAAJ09-81-B-0594. The bid was rejected because it was received by the contracting activity after the time specified in the IFB for bid opening. Ward contends that the Army should consider the bid since Government mishandling allegedly caused it to be late.

It is clear from Ward's initial submission that this protest is without legal merit. Therefore, we are deciding the matter without receiving a report from the Army. See Walker's Royal, Inc., B-200583, October 20, 1980, 80-2 CPD 301.

Bid opening was set for 1 p.m. on May 19, 1981. The IFB required that hand-carried bids be delivered to the contracting activity's small business office in building 101. Ward sent its bid by Federal Express. The carrier's package containing the bid listed the activity's small business office in building 101 as the intended recipient, and included a reference number "0594," which are the last four digits of the IFB number. The carrier, however, delivered the package to the central mailroom at the Government installation. The delivery was at 9:57 a.m. on bid opening day, and the bid did not arrive at the small business office until the following day.

Ward contends that because the package showed that it was destined for the small business office, and noted the reference number "0594," the central mailroom employees either should have directed the carrier there, or should have forwarded it there immediately.

[Protest of Bid Rejection for Lateness]

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Our Office has consistently held that a bidder is responsible for delivery of its bid to the proper place at the proper time, and that any exception to the rule requiring rejection of late bids is permitted only in the exact circumstances provided by the solicitation. Southern Oregon Aggregate, Inc., B-190159, December 16, 1977, 77-2 CPD 477 and cases cited therein. Moreover, whether a bid or proposal is late is measured by its time of arrival at the office designated in the solicitation, not by its time of arrival at an agency's central mailroom. LectroMagnetics, Inc., 56 Comp. Gen. 50 (1976), 76-2 CPD 371.

The Army's solicitation allowed the consideration of a late bid only if it was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids, or it was sent by mail (or telegram if authorized) and the late receipt was due solely to mishandling by the Government after receipt at the installation.

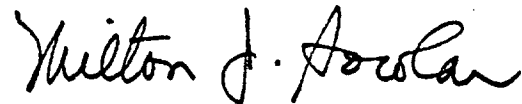
Thus, the bid could not be considered based on the Government mishandling exception, since the bid was hand-carried and the exception applies only to mailed bids. See General Atomic Company, B-202165, May 27, 1981, 81-1 CPD 415.

Our Office has, however, allowed a late hand-carried bid to be accepted if it was delivered on time to the wrong place and if it can be shown that some action by the Government was the paramount cause for the late delivery to the proper place. Southern Oregon Aggregate, Inc., *supra*.

Here, the IFB clearly stated that hand-carried bids were to be delivered to the small business office in building 101. Although Ward's bid package was addressed to building 101, the carrier delivered it to the central mailroom in another building. There is no indication that the carrier ever attempted to deliver the bid to the proper building or that there were any obstacles to prevent proper delivery. We see no reason why the fact that the package was addressed to the small business office or referenced "0594" should have alerted the mailroom people that a bid was enclosed or that

bid opening was imminent. Accordingly, in our view the Government was not responsible for the late delivery to building 101. Therefore, the bid properly was rejected as late.

Ward's protest is summarily denied.

A handwritten signature in cursive script, reading "Milton J. Aroian".

Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203971

August 4, 1981

The Honorable Stan Lundine
Member, United States House of
Representatives
180 Clemens Center Parkway
Elmira, New York 14901

Dear Mr. Lundine:

We refer to your letter to our Office dated July 6, 1981 on behalf of Ward '79 Limited regarding the rejection by the Department of the Army, TSARCOM, of the firm's late bid under solicitation DAAJ09-81-B0594.

Enclosed is a copy of our decision of today denying the protest.

Sincerely yours,

A handwritten signature in cursive script, reading "Milton J. Aroian", is written over the typed name.

Acting Comptroller General
of the United States

Enclosure